

Order

Michigan Supreme Court
Lansing, Michigan

January 22, 2010

Marilyn Kelly,
Chief Justice

139969

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 139969
COA: 287033
Saginaw CC: 05-026696-FH

DONALD ALLEN LOWN,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the October 1, 2009 judgment of the Court of Appeals is considered, and it is GRANTED. The parties shall include among the issues to be briefed: (1) whether the 180-day rule, MCL 780.131 and 780.133, is jurisdictional, and if so, whether it permits any delay in trial beyond 180 days from the date of the Department of Corrections notice; (2) whether a strict jurisdictional reading of the rule violates a defendant's constitutional rights when a delay in trial beyond the 180 days is sought by the defendant, as occurred in this case; (3) whether, if some delay in trial beyond 180 days is permitted by the statutory provisions, any such delay should be evaluated by attributing it to the defendant or the prosecution, and if so, whether action of the circuit court, such as delay due to docket management concerns, should automatically be attributed to the prosecution; (4) whether a prosecutor's good faith efforts to bring a defendant to trial within the initial 180-day period is of any relevance in the application of the statutory provisions, and if so, whether the prosecutor must remain prepared at all times to go to trial in order to avoid dismissal of the case under the rule; and (5) if this Court were to determine that the 180-day rule is jurisdictional and does not permit any delays in the commencement of trial, whether and to what extent that determination should be applied retroactively.

We ORDER the Saginaw Circuit Court, in accordance with Administrative Order 2003-03, to determine whether the defendant is indigent and, if so, to appoint counsel from the State Appellate Defender Office to represent the defendant in this Court.

The Criminal Defense Attorneys of Michigan and the Prosecuting Attorneys Association of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 22, 2010

Corbin R. Davis

Clerk